REMARKS

General note regarding pending claims

Applicant has amended the independent claims at least in part to make them more readable, by introducing appropriate carriage returns, semi-colons, and tabs between the claim elements and wherein clauses.

Claims 1-5, 7, 11-20

Claim 1 is an independent claim, from which claims 2-5, 7, and 11-20 ultimately depend. Claims 1, 3-5, and 11-20 have been rejected under 35 USC 103(a) as being unpatentable over Metcalfe (AU 743216) in view of Takahashi (2002/0041757). Claims 2 and 7 have been rejected under 35 USC 103(a) as being unpatentable over Metcalfe in view of Takahashi, and further in view of Matsumoto (6,795,642). Applicant respectfully submits that at least as amended, claim 1 is patentable over Metcalfe in view of Takahashi. As such, claims 2-5, 7, and 11-20 are patentable at least because they depend from a patentable base independent claim.

Applicant has amended claim 1 to recite that the at least one operation that is controlled based on the saliency signal comprises "automatically activating the electronic camera, without user interaction, to produce the image signal," where "the image signal represent[s] a still digital photograph." That is, based on the saliency signal, a still digital photograph is automatically taken, without user interaction. Applicant respectfully submits that Metcalfe in view of Takahashi does not recite this added subject matter of claim 1.

With respect to Metcalfe, as noted by the Examiner at the top of page 17 of the final office action, Metcalfe uses its saliency signal to control the reproduction of images *after* they have been taken, whereas claim 1 now recites that the saliency signal controls *whether* an image is taken or not. With respect to Takahashi, as also noted by the Examiner, Takahashi displays its saliency signal (i.e., auxiliary information) alongside a captured *moving* image, and does not determine whether or not an image is taken based on this saliency signal, and furthermore does not suggest

that a still digital photograph is taken, in contradistinction to claim 1. Indeed, Takahashi extracts "scenes of high degrees of importance" (i.e., based on the saliency signal) "*during or after* shooting of the scenes" (para. [0094]), whereas, in comparable language, claim 1 determines *whether* to shoot a scene based on the saliency signal.

Therefore, Metcalfe in view of Takahashi does not suggest the added subject matter of claim 1, such that Metcalfe in view of Takahashi does not render claim 1 *prima facie* obvious and unpatentable.

Claims 40 and 42

Claim 40 is an independent claim, from which claim 42 depends. Claims 40 and 42 have been rejected under 35 USC 103(a) as being unpatentable over Metcalfe in view of Takahashi and Matsumoto. Applicant respectfully submits, however, that claim 40 as previously presented is in fact patentable over Metcalfe in view of Takahashi and Matsumoto, such that claim 42 is patentable at least because it depends from a patentable base independent claim.

Claim 40 recites that an image signal is stored in place of a stored image when the value of the saliency signal [for the image signal] is greater than a value of a second saliency signal associated with the stored image and the memory is full. Stated another way, if the memory is full, an image signal having a greater saliency signal than that of a stored image replaces the stored image in the memory. Applicant respectfully submits that this feature is not suggested by Metcalfe in view of Takahashi and Matsumoto.

The Examiner has correctly stated that Metcalfe in view of Takahashi and Matsumoto suggests that "by adjusting the compression of the video being captured, it is possible to record the monitoring image data having a high degree of importance as much as possible" (final office action, p. 36). More specifically, Metcalfe in view of Takahashi and Matsumoto suggests that the stored data can be "recompress[ed] . . . depending on a degree of importance and increasing the residual capacity" (Matsumoto, col. 7, ll. 31-35). As such, "it is possible to ensure the picture

quality of the important monitoring image data while maintaining a picture recording time for a predetermined monitored time, and furthermore, to reliably record the monitoring image data when an alarm is generated" (id., col. 7, ll. 35-40). "Thus, it is possible to record the monitoring image data having a high degree of importance *as much as possible*" (id., col. 7, ll. 40-42) (emphasis added).

Therefore, Metcalfe in view of Takahashi and Matsumoto does not store an image signal in place of a stored image when the value of the saliency signal for the image signal is greater than the value of the saliency signal for the stored image, in contradistinction to claim 40. Rather, Metcalfe in view of Takahashi and Matsumoto compresses image signals having lower saliency signals more than it compresses image signals having higher saliency signals. However, when the memory is full in Metcalfe in view of Takahashi and Matsumoto, a more salient image signal does *not* replace a less salient image signal. Indeed, Metcalfe in view of Takahashi and Matsumoto makes this explicitly clear – while stored data is recompressed depending on its importance to increase residual memory capacity, image data having a high degree of importance is recorded only *as much as possible*. If there is no residual memory capacity remaining, in other words, existing, less salient image data is not replaced by more salient image data, in contradistinction to claim 40.

Therefore, Metcalfe in view of Takahashi and Matsumoto does not suggest the subject matter of claim 40, such that Metcalfe in view of Takahashi and Matsumoto does not render claim 1 *prima facie* obvious and unpatentable.

Claims 44 and 46-47

Claim 44 is an independent claim, from which claims 46-47 ultimately depend. Claims 44 and 46-47 have been rejected under 35 USC 102(b) as being anticipated by Takahashi. Applicant respectfully submits that at least as amended, claim 44 is patentable over Takahashi. As such,

claims 46 and 47 are patentable at least because they depend from a patentable base independent claim.

Claim 44 has been amended in a similar manner as claim 1 has. Therefore, insofar as claim 1 is patentable over Metcalfe in view of Takahashi, it follows that claim 44 is patentable over Takahashi alone. Stated another way, claim 44 is patentable over Takahashi for at least the same reasons that claim 1 is patentable over the combination of Takahashi and Metcalfe, as has been discussed above.

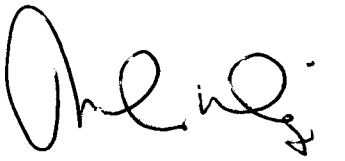
Conclusion

In light of the amendments and arguments presented above, Applicant believes that the pending claims are in condition for allowance. However, Applicant is amenable to adding other subject matter to the claims at the suggestion of the Examiner to secure allowance, if the Examiner believes that other subject matter would appropriately patentably distinguish the pending claims over the prior art of record. In this respect, Applicant encourages the Examiner to contact Applicant's representative, Mike Dryja, at the phone number listed below with such suggested language. Applicant would thus like for the remaining prosecution process in this patent application to be cooperative, and not adversarial.[1]

[1] Applicant notes in this respect that it is the Examiner's obligation to engage Applicant to resolve patentability issues as expeditiously as possible, and that the Examiner shares with Applicant the responsibility of the success of the patentability process. As noted in a recent email from USPTO Director Kappos to the examining corps:

> One key is to expeditiously identify and resolve issues of patentability—that is getting efficiently to the issues that matter to patentability in each case, and working with applicants to find the patentable subject matter and get it clearly expressed in claims that can be allowed. The examiner and the applicant share the responsibility for the success of this process.
> . . . . Let's be clear: patent quality does not equal rejection. In some cases this requires us to reject all the claims when no patentable subject matter has been

Respectfully Submitted,



July 12, 2010
Date

Michael A. Dryja, Reg. No. 39,662
Attorney/Agent for Applicant(s)

Law Offices of Michael Dryja
1230 E Baseline Rd #103-248
Mesa, AZ 85204
tel: 480-463-4837
fax: 480-371-2110

> presented. It is our duty to be candid with the applicant and protect the interests of the public. In other cases this means granting broad claims when they present allowable subject matter. In all cases it means engaging with the applicant to get to the real issues efficiently—what we all know as compact prosecution.

(Internet web site http://www.patentlyo.com/patent/2009/08/director-kappos-patent-quality-equals-granting-those-claims-the-applicant-is-entitled-to-under-our-laws.html) (Emphasis added)